

108TH CONGRESS  
2D SESSION

# H. R. 1779

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IN THE SENATE OF THE UNITED STATES

APRIL 22, 2004

Received; read twice and referred to the Committee on Finance

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## AN ACT

To amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from retirement plans during the period that a military reservist or national guardsman is called to active duty for an extended period, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Guardsmen and Re-  
 5 servists Financial Relief Act of 2004”.

6 **SEC. 2. PENALTY-FREE WITHDRAWALS FROM RETIREMENT**  
 7 **PLANS FOR INDIVIDUALS CALLED TO ACTIVE**  
 8 **DUTY FOR AT LEAST 179 DAYS.**

9 (a) IN GENERAL.—Paragraph (2) of section 72(t) of  
 10 the Internal Revenue Code of 1986 (relating to 10-percent  
 11 additional tax on early distributions from qualified retire-  
 12 ment plans) is amended by adding at the end the following  
 13 new subparagraph:

14 “(G) DISTRIBUTIONS FROM RETIREMENT  
 15 PLANS TO INDIVIDUALS CALLED TO ACTIVE  
 16 DUTY.—

17 “(i) IN GENERAL.—Any qualified re-  
 18 servist distribution.

19 “(ii) AMOUNT DISTRIBUTED MAY BE  
 20 REPAID.—Any individual who receives a  
 21 qualified reservist distribution may, at any  
 22 time during the 2-year period beginning on  
 23 the day after the end of the active duty pe-  
 24 riod, make one or more contributions to an  
 25 individual retirement plan of such indi-

vidual in an aggregate amount not to exceed the amount of such distribution. The dollar limitations otherwise applicable to contributions to individual retirement plans shall not apply to any contribution made pursuant to the preceding sentence. No deduction shall be allowed for any contribution pursuant to this clause.

“(iii) QUALIFIED RESERVIST DISTRIBUTION.—For purposes of this subparagraph, the term ‘qualified reservist distribution’ means any distribution to an individual if—

“(I) such distribution is from an individual retirement plan, or from amounts attributable to employer contributions made pursuant to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3) or section 501(c)(18)(D)(iii),

“(II) such individual was (by reason of being a member of a reserve component (as defined in section 101 of title 37, United States Code)), ordered or called to active duty for a pe-

1                   riod in excess of 179 days or for an  
2                   indefinite period, and

3                   “(III) such distribution is made  
4                   during the period beginning on the  
5                   date of such order or call and ending  
6                   at the close of the active duty period.

7                   “(iv) APPLICATION OF SUBPARA-  
8                   GRAPH.—This subparagraph applies to in-  
9                   dividuals ordered or called to active duty  
10                  after September 11, 2001, and before Sep-  
11                  tember 12, 2005. In no event shall the 2-  
12                  year period referred to in clause (ii) end  
13                  before the date which is 2-years after the  
14                  date of the enactment of this subpara-  
15                  graph.”.

16               (b) CONFORMING AMENDMENTS.—

17               (1) Section 401(k)(2)(B)(i) of such Code is  
18               amended by striking “or” at the end of subclause  
19               (III), by striking “and” at the end of subclause (IV)  
20               and inserting “or”, and by inserting after subclause  
21               (IV) the following new subclause:

22                       “(V) the date on which a period  
23                       referred to in section  
24                       72(t)(2)(G)(iii)(III) begins, and”.

1           (2) Section 403(b)(11) of such Code is amend-  
2       ed by striking “or” at the end of subparagraph (A),  
3       by striking the period at the end of subparagraph  
4       (B) and inserting “, or”, and by inserting after sub-  
5       paragraph (B) the following new subparagraph:

6                       “(C) for distributions to which section  
7               72(t)(2)(G) applies.”.

8       (c) EFFECTIVE DATE.—The amendment made by  
9       this section shall apply to distributions after September  
10   11, 2001.

Passed the House of Representatives April 21, 2004.

Attest:

JEFF TRANDAHL,

*Clerk.*